

Larsen trusts the advice he receives from the international representatives. He further thought such advice was important to his safety (Tr. 372, 373). Larsen felt they need the UMWA's expertise. This is why the local miners pay their dues. Futher, the international helps them (Tr. 373, 374) .

Witness Rabbitt, recalled by the UMWA, described the sign-in and sign-out books at the mine (Tr. 375, 376).

Discussion

This case turns on the interpretation of § 103(f) of the Federal Mine Safety and Health Act of 1977. ^{14/}

The walkaround participation right was first enacted in the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 750, Public Law 91-173. Section 103(h) thereof provided as follows:

(h) At the commencement of any inspection of a coal mine by an authorized representative of the Secretary, the authorized representative of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

The 1977 amendment, enacted in § 103(f), considerably broadened the walkaround participation right and addressed the issue of pay when a representative of miners accompanied the inspection team.

Specifically, such representative of miners "who is also an employee of the operator shall suffer no loss of pay ..." Clearly, then, Congress contemplated that non-employees may be representatives of miners. Commission Judge James A. Broderick ruled to this effect in Consolidation Coal Company v. Secretary of Labor et al, 2 FMSHRC 1403 (1980).

In fulfilling his statutory rulemaking mandate contained in the 1977 Act the Secretary issued his interpretative bulletin, 43 Fed. Reg. 17546, (April 25, 1978) setting for his general interpretation of the scope of § 103(f). The bulletin provides, in part, as follows:

14/ This section has been before the Courts of Appeals in UMWA v. Federal Mine Safety and Health Review Commission, 671 F.2d 615 (DC Cir. 1982), cert. denied 74 L. Ed.2d 189 (1982); Magma Copper Company v. Secretary of Labor, 645 F.2d 694 (9th Cir. 1981) cert. denied 50 U.S.L.W. 3296 (1981); Consolidation Coal Co. v. Federal Mine Safety and Health Review Commission, 740 F.2d 271 (3rd Cir. 1984); Monterey Coal Co. v. Federal Mine Safety and Health Review Commission, 743 F.2d 589 (7th Cir. 1984).